

**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:)	
)	COMPLAINT NO. 2001-138
SOUTHWEST MARINE)	FOR
NONCOMPLIANCE WITH)	ADMINISTRATIVE CIVIL LIABILITY
ORDER NO. 97-36)	MAY 14, 2001
)	

SOUTHWEST MARINE (SWM) IS HEREBY GIVEN NOTICE THAT:

1. SWM is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (SDRWQCB) may impose civil liability pursuant to the *Porter-Cologne Water Quality Control Act, California Water Code (CWC), § 13385 et seq.*
2. A public hearing on this matter before the SDRWQCB will be scheduled at the SDRWQCB meeting on June 13, 2001, at the *City of Chula Vista, City Council Chambers, 276 Fourth Avenue, Chula Vista, California.* The meeting will begin at 9:00 a.m. At the hearing, SWM will have the opportunity to be heard and to contest the allegations in this *Complaint* and the imposition of civil liability by the SDRWQCB. Additional notice of this public hearing and the hearing procedures will be provided to the SWM prior to the hearing date with the agenda for the SDRWQCB meeting on that date.
3. At the hearing, the SDRWQCB will determine the validity of the allegations contained herein and, if the allegations are found to be true, will consider whether to assess civil liability in the amount proposed by this *Complaint*, or in some other amount.
4. According to SWM's *1999-2000 Annual Stormwater Monitoring Report*, on February 12, 2000, SWM collected samples of storm water runoff from two discharge points at its facility that resulted in two separate outfall discharges to San Diego Bay.

ALLEGATION

5. On February 12, 2000, SWM violated *Order No. 97-36, Discharge Specification B.8.* for toxicity for two discharge points that resulted in two outfall discharge locations to San Diego Bay. Of the two discharge points sampled, two

separate storm water outfall locations were identified as flowing to San Diego Bay. The toxicity results at both of the storm water outfall locations violated the survival response requirement contained in *Order No. 97-36, Discharge Specification B.8.*

BACKGROUND

6. The storm water sampling and analyses were conducted pursuant to *Order No. 97-36* and *Monitoring and Reporting Program No. 97-36*. The toxicity limit in *Order No. 97-36, Discharge Specification B.8.* states the following:

Effective July 1, 1999, in a 96-hour static or continuous flow bioassay (toxicity) test, undiluted stormwater runoff associated with industrial activity which is discharged to San Diego Bay shall not produce less than 90 percent survival, 50 percent of the time, and not less than 70 percent survival 10 percent of the time, using a standard test species and protocol approved by the Executive Officer. Until July 1, 1999, this level of acute toxicity shall be a performance goal. [EBEP]

7. The copper concentrations from the February 12, 2000, storm water discharges during the wet weather season 1999-2000 are of concern. The storm water copper concentrations ranged from 0.0020 mg/L to 0.5330 mg/L and the average for the respective storms were 0.3143 mg/L and 0.1200 mg/L.
8. The zinc concentrations from the February 12, 2000, samples of storm water discharges during the wet weather season 1999-2000 are of concern. The storm water zinc concentrations ranged from 0.0160 mg/L to 0.5410 mg/L and the average for the respective storms were 0.3141 mg/L and 0.1745 mg/L.

PROPOSED CIVIL LIABILITY

9. Based on consideration of the factors listed in the CWC, civil liability should be imposed on SWM by the SDRWQCB in the amount of twelve thousand six hundred sixty-four dollars (\$12,664) for the two violations described in paragraph 5.

WAIVER OF HEARING

10. SWM may waive its right to a hearing. Waiver of the hearing constitutes admission of the validity of the allegation of violations in this *Complaint* and acceptance of assessment of civil liability in the amount of \$12,664 as set forth in paragraph 9. If SWM wishes to waive the hearing, an authorized agent must check, sign, and return the waiver form attached to this *Complaint*, together with a cashier's check for the amount of the civil liability proposed in paragraph 9. The cashier's check must be made payable to the *State Water Resources Control Board* and mailed to the *California Regional Water Quality Control Board, San Diego Region, 9771 Clairemont Mesa Boulevard, Suite A, San Diego, California, 92124*. If a hearing is held, comments from SWM and interested parties may be considered by the SDRWQCB in determining the amount of civil liability to assess. Following the hearing, the SDRWQCB may impose an amount of civil liability other than that proposed in this *Complaint* or revoke the *Complaint* and refer the matter to the Attorney General for judicial assessment of civil liability (with higher maximum liabilities for each violation). Please direct questions about this matter to me at (858) 467-2952.

Dated this 14th day of May 2001

By: _____
John H. Robertus
Executive Officer

WAIVER OF THE RIGHT TO A HEARING

[] By checking the box and attaching a cashier's check for the full amount of the civil liability proposed in *Complaint No. 2001-138, Southwest Marine* waives the right to a hearing before the SDRWQCB with regard to the violations alleged in *Complaint No. 2001-138*. Waiver of the hearing constitutes admission of the validity of the allegation of violations in this complaint and acceptance of assessment of civil liability in the amount of \$12,664 as set forth in *Complaint No. 2001-138*.

The cashier's check must be made payable to *the California State Water Resources Control Board*, and mailed to the *California Regional Water Quality Control Board, San Diego Region, 9771 Clairemont Mesa Blvd., Suite A, San Diego, California 92124-1324*. *Southwest Marine* understands that they are giving up the right to argue against the allegations made by the *Executive Officer* in this *Complaint*, and against imposition of, and the amount of, the civil liability imposed.

Signature

Printed Name

Title/Position

Date